

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.15299 of 2018
Date of Decision:11.07.2018**

Rajesh

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Saurabh Dalal, Advocate, for the petitioner.

Ms.Nidhi Garg, AAG Haryana.

RITU BAHRI, J. (ORAL)

The petitioner has come up in writ petition for issuance of a writ especially in the nature of Mandamus directing the respondents to release the petitioner on parole for a period of one month to put his son in a coaching academy after matriculation.

The petitioner has been convicted vide order dated 18.11.2010 in an FIR No.09 dated 11.01.2008, for the offence under Sections 302/148/149/323/325 IPC, registered at P.S.Sadar Bahadurgarh, Jhajjar, for life imprisonment. The Criminal Appeal No.CRA-D-45-DB of 2011 is pending consideration before this Court. The petitioner has applied for parole to the Jail Superintendent, Jhajjar, for the purpose of getting admission of his son in coaching academy at Delhi who had passed his matriculation examination. Reply has been filed by learned State Counsel on behalf of DSP, District Jail, Jhajjar, wherein, stand taken by the respondents that on 09.09.2017, he was found in possession of a mobile phone and a case FIR No.796 dated 09.09.2017 under Section 42/45 Prisons Act was got

registered in Police Station, Jhajjar. Hence, the petitioner came under the category of a "Hardcore Prisoner" as per Section (IV) of Haryana Good Conduct Prisoners (Temporary Release) Amendment Act 2012 and 3013. As per Section 2(2), of Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015, a convict hardcore prisoner who has not been awarded death penalty, may be entitled for temporary release or furlough after completing 5 years of conviction. Learned counsel for the State has informed that son of the petitioner has passed matriculation and there is no member in the family of the petitioner for getting the admission to his son at New Delhi.

Keeping in view the above fact, the prayer of release the petitioner on one month parole of the petitioner is genuine. However, the Division Bench of this Court while deciding the case titled Gurdeep Singh Vs. State of Haryana passed in CRWP No.1374 of 2017 decided on 07.12.2017, has rejected for denying grant of parole to any accused for agricultural purpose. In this regard, it has been observed as under:-

“ While this Court, in no uncertain terms, holds that the jail inmates cannot be allowed to keep mobile phones or such other gadgets etc. which are oftenly used to commit professional crimes like demand of ransom, kidnapping etc.etc.. Nevertheless, it is an integral part of the jail reforms that the inmates should be provided with telephone facilities to connect themselves with their family, nears and dears. Such a facility can be made available by the jail authorities through a land line number(s). In this backdrop, it is difficult to accept that the mere recovery of mobile phone from an inmate against whom there is not even a whisper that he ever misused the phone either to blackmail some one or for

demanding ransom or he involved himself in any other nature of crime, would be sufficient to categorise him as a 'hardcore' prisoner. It is only in a case where the inmate is found to have misused the mobile facility for committing another crime while inside the jail, that he should be put into the category of 'hardcore criminals' and be deprived of his statutory right of parole. The petitioner, in the absence of any such allegation, does not fall in that exceptional category.

In view of the above, the present writ petition is allowed by giving directions to the respondents to release the petitioner on parole for one month w.e.f. 15.07.2018 to 15.08.2018 for the purpose of getting admission to his son in a coaching centre at New Delhi, in view of Section 2(2), of Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015.

Disposed of accordingly.

A copy of this order be supplied to counsel for the petitioner after putting the signature of Bench Secretary.

(RITU BAHRI)
JUDGE

11.07.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No